

## **REMARKS**

Applicants respectfully request favorable reconsideration in view of the foregoing amendments and the following remarks.

Claims 1-4 are pending. Claim 1 is amended herein.

Claims 5-8 have been cancelled from further consideration pursuant to 37 CFR 1.142(b) without prejudice to or disclaimer of the subject matter recited therein.

The following claims stand rejected under 35 U.S.C. 102(b) as being anticipated by the following art:

1. Claims 1-4 by US 4702255 (Schenkl);
2. Claims 1, 3-4 by US 6745501 (Brown);
3. Claims 1, 3-4 by US 1901353 (Mitchie); and
4. Claims 1, 3-4 by US 7206718 (Cavanagh).

The above-noted rejections are respectfully traversed.

1. Schenkl teaches “An orthotic for controlling the motion of and supporting the foot of a person”, including “thin strips of plastic [that] are heat welded to the medial underside of a formed shell of plastic. More strips may be added to increase the shell's rigidity.” (abstract)

There is no attempt by Schenkl to reduce pressure or stretching of the skin over the metatarsal heads during toe off. The result will likely be continued discomfort and trauma to the area of the metatarsal heads. Specifically, in a diabetic having a diabetic plantar foot ulcer the orthotic taught by Schenkl will do nothing to alleviate this serious condition; on the contrary: the Schenkl orthotic may very well aggravate the problem; with a possible leg amputation being a common result.

2. Brown teaches “a rigid cap member having a downwardly extending ... [portion which] engages the underlying insole of the shoe.” (abstract)

The pivot taught by Brown does not reduce any pressure on the metatarsal heads. In fact the rigid cap member increases the mass directly below the metatarsal heads and most likely increases the pressure on the metatarsal heads during the entire gait cycle. Again, the pressure trauma to the metatarsal heads is not alleviated by the teaching of Brown.

3. Mitchie teaches “a supporting member which transfers the pressure of the sole of the shoe to the sole of the foot in a manner to correctly support the arches.” (Column 2 lines 5-8)

The orthotic device taught by Mitchie is designed to support the arches of the feet. To do this, structures on either side of the arch, namely the heel and the metatarsal heads, must be firmly planted on a support surface. It is clear that there is no alleviation of the pressure on the metatarsal heads.

4. Cavanagh teaches “A three dimensional insole display ... which combines and aligns the foot shape and plantar pressure distribution,” (abstract)

The orthotic taught by Cavanaugh distributes the pressure generated by the bodyweight of the wearer of the orthotic against the support surface. This distribution is designed to align the arch properly; and again relies on the support of structures on either side of the arch. The structures that are aligned by the Cavanaugh orthotic include the heel and the metatarsal heads. In no way does Cavanaugh alleviate stretching or pressure on the metatarsal heads. Once more, this pressure can subject the metatarsal heads to traumatic physical force which is contraindicated particularly when there are ulcers in the area of the metatarsal heads.

In distinct contrast to all of the above teachings, the instant invention teaches:

“creating a specially designed insert on the positive cast ... thus creating enough space for the foot to complete a step with significantly reduced bending and reduced pressure of the five metatarsal heads of the forefoot during gait, resulting in prevention of skin stretching at the metatarsal heads area of the foot” (claim 1)

On the positive cast, “an orthopedic insole is molded” is created. (claim 1)

In view of the foregoing, Applicant respectfully submits that the independent claims patentably define the present invention over the citations of record. Further, the dependent claims should also be allowable for the same reasons as their respective base claims and further, due to the additional features that they assert. Separate and individual consideration of the independent claim is respectfully requested.

Applicant believes that the present Amendment is responsive to each of the points raised by the Examiner in the Official Action. However, if there are any formal matters remaining after this response, the Examiner is requested to please phone the undersigned to attend to such matters.

There being no further outstanding objections or rejections, it is submitted that the present application is in condition for allowance.

An early action to that effect is courteously solicited.

No fees are believed to be due. However, please charge any other required fee (or credit overpayments) to the Deposit Account of the undersigned, Account No. 500601 (Docket No. 7044-X07-067)

Respectfully submitted,

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